

Message Text

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PAGE 01 STATE 272499

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TO USMISSION OECD PARIS

C O N F I D E N T I A L STATE 272499

LIMDIS FOR ASSISTANT SECRETARY ENDERS

FOLLOWING REPEAT LIMA 9448 ACTION SECSTATE 14 NOV

QUOTE

C O N F I D E N T I A L LIMA 9448

LIMDIS

FOR ARA - WILLIAM ROGERS; L - MONROE LEIGH; EB - THOMAS ENDERS;

TREASURY - JOHN BUSHNELL; CIEP - WAYNE SHARPE; COMMERCE -

DAN ARRILL

E.O. 11652: GDS

TAGS: EINV, EIND, EMIN, PFOR, PE

SUBJ: MARCONA - REQUEST FOR DEPARTMENT APPROVAL OF

REVISED INTERIM AGREEMENT

1. AFTER A SERIES OF UPS AND DOWNS BEING REPORTED SEPTELS,
WE BELIEVE THERE IS SOME CHANCE USG GROUP AND GOP CAN REACH
AGREEMENT ON A PACKAGE WHICH INVOLVES AN INTERIM AGREEMENT IN
THE FORM OF A MEMORANDUM OF UNDERSTANDING (TEXT PARA 3 BELOW)
TO RESUME ORE SHIPMENTS AND CONTINUE COMPENSATION NEGOTIATIONS
(LESS THE ESCROW ACCOUNT) AND A LETTER FROM MINERO PERU
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PAGE 02 STATE 272499

COMERCIAL (MINPECO) WHICH WILL SERVE AS BASIS FOR MARCONA

TO NEGOTIATE NEW SHIPPING CONTRACTS WITH TRADITIONAL BUYERS OF ORE. PERU WOULD SELL FOB TO BUYERS WHO COULD CONTRACT THEIR OWN SHIPS. MARCONA SUPPORTS THIS APPROACH, BELIEVING THAT IF SUCCESSFUL IT WILL OFFER AN OPPORTUNITY TO REESTABLISH A RELATIONSHIP WITH THE GOP AND, ULTIMATELY, TO A FAIR COMPENSATION PACKAGE. IN FACT COMPTON STATED HIS VIEW THAT THIS PROPOSAL MORE BENEFICIAL TO MARCONA THAN ESCROW IDEA WHICH GOP HAS REJECTED. US GROUP FEELS THAT PACKAGE WOULD OFFER A HOPEFUL FRAMEWORK FOR AN EVENTUAL SETTLEMENT AND AT THE VERY LEAST POSTPONE CONFRONTATION AND GIVE GOP MORE TIME TO COMPLETE INTERNAL DISCUSSIONS ON COMPENSATION. COMPENSATION WOULD REMAIN TO BE NEGOTIATED, BUT WE FEEL CHANCES FOR A SATISFACTORY FIGURE WOULD BE GREATLY INCREASED BY REESTABLISHMENT OF MARCONA/PERU RELATIONSHIP. WE HAVE FELT FROM OUTSET THAT SOME PORTION OF TOTAL COMPENSATION MUST BE INDIRECT IN FORM OF SHIPPING AND/OR SALES CONTRACTS; INTERIM ARRANGEMENT WILL REESTABLISH THE MARCONA/GOP RELATIONSHIP, ON A COMMERCIAL RATHER THAN GOVERNMENTAL LEVEL, AND MAY BE VIABLE. IF APPROVED BY THE MINISTERS LATER TODAY, FISHLOW WOULD HOPE TO SIGN FOR USG EARLY EVENING BEFORE DEPARTURE.

2. INTERIM AGREEMENT WOULD BE OBVIOUS SIGN OF NEGOTIATIONS IN GOOD FAITH AND THERE WOULD BE NO FURTHER REASON TO HOLD UP ON IFI LOANS AT LEAST FOR TIME BEING.

3. PRESENT TEXT OF PROPOSED MEMORANDUM OF UNDERSTANDING IS AS FOLLOWS:

A) UNDER DECREE LAW NO. 21228, THE GOVERNMENT OF PERU NATIONALIZED THE MINING-METALLURGICAL COMPLEX OPERATED BY THE PERUVIAN BRANCH OF THE MARCONA MINING COMPANY. AS A CONSEQUENCE OF THIS ACTION, REPRESENTATIVES OF THE GOVERNMENT OF PERU AND THE GOVERNMENT OF THE UNITED STATES HAVE BEEN HOLDING AND WILL CONTINUE TO HOLD DISCUSSIONS AIMED AT REACHING AGREEMENT REGARDING JUST AND APPROPRIATE COMPENSATION.

B) PURSUANT TO THIS OBJECTIVE THE GOVERNMENT OF PERU WILL COMPLETE ITS AUDIT OF THE FINANCIAL STATEMENTS OF THE MARCONA MINING COMPANY'S PERUVIAN BRANCH, A PROCESS WHICH SHOULD BE COMPLETED WITHIN SIXTY (60) DAYS.

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PAGE 03 STATE 272499

C) SHIPMENTS OF IRON ORE SHALL BE RESUMED AS PROMPTLY AS POSSIBLE IN CONFORMITY WITH TERMS AND CONDITIONS DETERMINED BY MINERO PERU COMERCIAL AND WITH DUE CONSIDERATION FOR THE REQUIREMENTS AT THE STEEL MILLS THAT HAVE TRADITIONALLY CONSUMED PERUVIAN ORE. MARITIME TRANSPORT ON C.I.F. TERMS SHALL BE CONTRACTED BY THE COMPAÑIA PERUANA DE VAPORES. HOWEVER, WHERE SALES BY MINERO PERU COMERCIAL ARE CONTRACTED FOR UNDER

FOB CONDITIONS, THE BUYER SHALL HAVE FULL FREEDOM TO SELECT
THE SHIPS THAT TRANSPORT THE IRON ORE UNDER SAID CONTRACTS.

D) THE ARRANGEMENTS DESCRIBED IN THE PRESENT DOCUMENT SHALL
BE REEVALUATED AFTER THREE MONTHS. IT SHALL BE UNDERSTOOD
THAT THEY ARE NOT INTENDED AS A PERMANENT ACCORD, BUT AS AN
INTERIM MEANS FOR FACILITATING THE EXPORT OF IRON ORE, WITH
THE FURTHER UNDERSTANDING THAT AGREEMENT ON JUST AND APPROPRIATE
COMPENSATION AS SPECIFIED IN PARAGRAPH (A) SHALL BE REACHED
AS EXPEDITIOUSLY AS POSSIBLE.

E) THIS MEMORANDUM WILL BE SIGNED IN THE ENGLISH AND
SPANISH LANGUAGES AND BOTH TEXTS WILL HAVE EQUAL VALIDITY.

4. MINPECO-MARCONA LETTER APPROVED BY MARCONA BEING SENT
SEPTEL.

5. REQUEST DEPARTMENT'S URGENT CONCURRENCE IN SIGNATURE OF
AGREEMENT ALONG LINES OF TEXT GIVEN PARA. 3, WITH UNDERSTANDING
THAT SIGNED LETTER ACCEPTABLE TO MARCONA WILL BE EXECUTED AT
SAME TIME.

DEAN
UNQTE. KISSINGER

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